

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAR PALA RA ANAN aka,
MARVELLOUS A. GREENE, SR.,

Plaintiff,

No. CIV S-02-0493 DFL GGH P

vs.

D. KIMBRELL,

Defendants.

ORDER

Defendants filed a request, on April 29, 2005, to be relieved from the date for filing their pretrial statement, asking the court to order plaintiff to show cause why this action should not be dismissed pursuant to Fed. R. Civ. P. 41(b) for his failure to comply with the court's order filed on March 31, 2005. However, the court's review of the case docket indicated that plaintiff had never received the March 31, 2005 court order because CDC deemed it "undeliverable."

Thereafter, by order filed on May 9, 2005, the May 6, 2005 pretrial conference was vacated from the court's calendar and defendants were directed to show cause for CDC's repeated failure to deliver the court's mail to plaintiff. On May 19, 2005, defendants filed their response indicating that prison officials have returned plaintiff's court mail because some of his court mail has not included a CDC number; his CDC number, when included, often does not

1 correspond to a known alias; and legal mail cannot be opened outside the presence of the inmate
2 to ascertain to whom it should be sent. Defendants gave as an example court mail addressed to
3 “Marvellous Asha Xyah” on May 13, 2005. It is apparent that plaintiff’s own use of unknown
4 aliases, therefore, appears to contribute to his failure to receive court mail and hinders
5 prosecution of this matter. Defendants now aver that every effort will be made to assure that
6 legal mail containing inmate Greene’s CDC number and/or name will be delivered.

7 Although the date for the pretrial conference set in the March 31, 2005 order has
8 been vacated, the court will direct re-service of that order upon plaintiff because it clearly sets
9 forth the basis upon which this action proceeds. On May 11, 2005, plaintiff filed an amended
10 pretrial statement. The amended pretrial statement suffers from some of the same inadequacies
11 of the premature pretrial statement he filed on March 15, 2004, and plaintiff is cautioned that,
12 because he has failed to identify any, he will be allowed to call no witnesses at trial, nor will he
13 be allowed to submit exhibits vaguely identified, for example, as, “documents filed by the
14 attorney general’s office,” *unless, by June 15, 2005, he supplements his latest pretrial statement*
15 *by identifying, at a minimum, the name and location of any witnesses he would like to call and by*
16 *specifying each precise exhibit he intends to offer,* Defendants must file their pretrial statement
17 by June 22, 2005 and the pretrial conference on the papers will be held on June 29, 2005.

18 Accordingly, IT IS ORDERED that:

- 19 1. Defendants have discharged the court’s May 9, 2005 show cause order;
- 20 2. Notwithstanding the caption of this case or plaintiff’s signature on any filings,
21 *the Clerk of the Court is to address the envelopes of all mail from this court to plaintiff with the*
22 *name of “Marvellous A. Greene, Sr.” and include the CDC number “K-29392.”*
- 23 3. The Clerk of the Court is to re-serve the court’s order filed on March 31, 2005
24 upon plaintiff;
- 25 4. Plaintiff is to file supplemental information with respect to any prospective
26 trial witnesses, including informing the court whether or not he himself intends to testify, and he

1 must adequately and specifically identify each prospective trial exhibit, by no later than June 15,
2 2005;

3 5. Defendants must file their pretrial statement by June 22, 2005; the pretrial
4 conference on the papers is re-set for June 29, 2005.

5 DATED: 6/1/05

6 /s/ Gregory G. Hollows
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GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

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